

In the
Indiana Supreme Court



IN THE MATTER OF THE
APPROVAL OF LOCAL RULES
FOR JOHNSON COUNTY

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Case No. 41S00-1202 -MS- 132

ORDER APPROVING AMENDED LOCAL RULE

The Judges of the Johnson Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E). Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendments requested by the Johnson Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR41-CR2.2-086 and LR41-CR2.2-089 comply with the requirements of Ind. Administrative Rule 1(E), and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules LR41-CR2.2-086 and LR41-CR2.2-089 for Johnson County Courts, set forth as an attachment to this Order, is approved effective retroactive to January 1, 2012. The Clerk of this Court is directed to forward a copy of this Order to the Hon. Kevin Barton, Johnson Superior Court 1, 5 East Jefferson Street, Franklin, IN 46131; the Hon. Cynthia S. Emkes, Johnson Superior Court 2, 18 West Jefferson Street, Franklin, IN 46131-2339; to the Hon. Lance Hamner, Johnson Superior Court 3, 5 East Jefferson Street, Franklin, IN 46131-2339; to the Hon. K. Mark Loyd, Johnson Circuit Court, 5 East Jefferson Street, Franklin, IN 46131-2339; to the Clerk of the Johnson Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Johnson Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment

for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 27th day of February, 2012.

RT Shepard

Randall T. Shepard
Chief Justice of Indiana

LR41 - CR2.2 - 085: Authority and Scope.

These rules are hereby promulgated pursuant to the authority of the Indiana Criminal Rules and shall govern the practice and procedure for the filing assignment of all felony and misdemeanor cases in the Johnson County Circuit and Superior Courts.

LR41 - CR2.2 - 086: Random Case Assignment.

- A. **Felonies.** In conjunction with the Amended Johnson County Plan for Allocation of Judicial Resources, and subject to the provisions of LR41 - CR2.2 - 087 and LR41 - CR2.2 - 88, all cases involving Felonies shall assigned on a random and equal basis among the Johnson Circuit Court, Johnson Superior Court No. 2, and Johnson Superior Court No. 3.
- B. **Misdemeanors, Infractions, and Ordinance Violations.**
1. All Criminal Misdemeanors (CM) filed for the purposes of a trial *de novo* from the Franklin City Court or the Greenwood City Court shall be filed and heard in the Johnson Circuit Court.
 2. In conjunction with the Amended Johnson County Plan for Allocation of Judicial Resources, and subject to the provisions of LR41 - CR2.2 - 086 and LR41 - CR2.2 -87, all other Criminal Misdemeanor (CM), Infraction (IF), and Ordinance Violation (OV) cases shall be assigned on a random basis among the Johnson Circuit Court, the Johnson Superior Court No. 1, the Johnson Superior Court No. 2, and the Johnson Superior Court No. 3. The distribution between these courts shall be:
 - a. One quarter (25%) of such cases shall be filed in the Johnson Circuit Court, the Johnson Superior Court No. 1, and the Johnson Superior Court No. 2 on an random and even basis;
 - b. The remaining three-quarters (75%) of such cases shall be filed in the Johnson Superior Court No. 3;
 - c. Infraction and Ordinance Violation cases shall be heard by the Magistrate of the Johnson County Circuit and Superior Courts; and,
 - d. Unless set forth otherwise herein, Criminal Misdemeanor cases filed in the Johnson Circuit Court, the Superior Court No. 1, and the Johnson Superior Court No. 2, shall be heard by the Magistrate of the Johnson County Circuit and Superior Courts.
- C. **Miscellaneous Criminal (MC) Cases.**
1. **Search Warrants.** Miscellaneous Criminal cases opened for Search Warrants shall be assigned among the Johnson Circuit Court, Johnson Superior Court No. 1, Johnson Superior Court No. 2, and Johnson Superior Court No. 3 based upon the annual Judges' On-Call Schedule.
 2. **Grand Jury.** Miscellaneous Criminal cases opened for Grand Jury proceedings shall be opened in the court of the supervising Judge, pursuant to Rule LR41-CR00-091.

3. **General.**

- a. Miscellaneous Criminal cases opened for rights advisements shall be assigned among the Johnson Circuit Court, Johnson Superior Court No. 1, Johnson Superior Court No. 2, and Johnson Superior Court No. 3 on a random and even basis;
- b. Miscellaneous Criminal cases opened for rights advisements shall be heard by the Magistrate of the Johnson County Circuit and Superior Courts;
- c. Miscellaneous Criminal cases opened for probation transfers shall be assigned to the Johnson Circuit Court; and,
- d. Miscellaneous Criminal cases opened for all other reasons shall be assigned among the Johnson Circuit Court, Johnson Superior Court No. 1, Johnson Superior Court No. 2, and Johnson Superior Court No. 3 on a random and even basis.

LR41 - CR2.2 - 087: Re-filings and Subsequent Filings.

A. Subsequent to Dismissals.

1. In the event the State of Indiana dismisses a case or charge, any subsequent case or charge filed against the named defendant shall be assigned to the Court from which the dismissal was taken.
2. It shall be the duty of the Prosecuting Attorney to bring this fact to the attention of the Clerk's Office when charges are re-filed.

B. New Causes of Action, Generally.

1. Subject to the provision of subsection (c) below, in the event of the origination of a new cause of action against a defendant with an existing felony or misdemeanor proceeding, the new cause of action shall be assigned to the Court administering the existing cause(s) of action.
2. It shall be the duty of the Prosecuting Attorney to bring this fact to the attention of the Clerk's Office when the new charges are filed.

C. New Causes of Action, Probation Revocation.

1. If the new felony or misdemeanor cause of action filed against a defendant is supported by the same facts upon which a petition revoke probation or direct commitment to a Community Corrections program could be based, the new cause of action shall be assigned to the Circuit or Superior Court in which the related probation or commitment is being supervised.
2. It shall be the duty of the Prosecuting Attorney to bring this fact to the attention of the Clerk's Office when such new charges are filed.

LR41 -CR2.2 - 088: Non-support of Dependents.

Charges of Nonsupport of a Dependent Child shall be assigned to the Johnson Circuit Court and heard in the Juvenile and Family Court by the Juvenile Magistrate as a Family Court proceeding. It shall be the duty of the Prosecuting Attorney to file the Family Court Identification Form with the Juvenile and Family Court.

LR41 - CR2.2 - 089: Reassignment.

- A. In the event a change of Judge is granted, or it becomes necessary to assign another Judge in any felony or misdemeanor proceeding, the case shall be returned to the Clerk's office for random selection as follows:
 - 1. Murder and Felony cases (MR, FA, FB, FC, and FD) shall be re-assigned among the Johnson Circuit Court, Johnson Superior Court No. 2, and Johnson Superior Court No. 3, excluding any court in which the case has previously been assigned.
 - 2. Criminal Misdemeanors (CM), Infractions (IF), and Ordinance Violations (OV) shall be re-assigned among the Johnson Circuit Court, Johnson Superior Court No. 1, Johnson Superior Court No. 2, and Johnson Superior Court No. 3, excluding any court in which the case has previously been assigned.
- B. Upon selection, the case shall be reassigned and transferred to the selected Court.
- C. Misdemeanors reassigned to the Johnson Circuit Court, Johnson Superior Court No. 1, or Johnson Superior Court No. 2 in this manner shall be heard by the Magistrate of the Johnson County Circuit and Superior Courts.
- D. This rule does not limit the authority of the Judges to transfer cases between the Courts by agreement of the Judges.